



AGREEMENT FOR TENNESSEE AGRICULTURAL ENHANCEMENT PROGRAM PROJECT
 Between
TENNESSEE URBAN FORESTRY COUNCIL
AND
"CITY OF FRANKLIN, TN"

Begin Date: November 01, 2019	End Date: April 30, 2020	Agreement ID: 201911
Cooperator/Community Representative (please print): Brian Walker	Project Name: City of Franklin, TN	
Email Address: brian.walker@franklintn.gov	Mailing Address: 109 Third Avenue South	
Daytime Phone: (615) 794-2103	City, State, Zip: Franklin, TN, 37064	
Fax:	County: Williamson	
Project Location: 846 Lewisburg Pike in Franklin, TN		
Latitude (Decimal Degrees):		Longitude (Decimal Degrees):

Terms of Agreement

1. The Tennessee Urban Forestry Council (TUFC) provides this grant through funding by the Tennessee Department of Agriculture, Division of Forestry (TDF), Tennessee Agricultural Enhancement Program (TAEP) to City of Franklin (Grantee) to provide incentive payments on a reimbursement basis to increase the tree recourse base in cities and town across the state of Tennessee. Activities associated with this mission must be consistent and follow guidelines provided by TUFC, including eligible expenses, suitable species, and other technical aspects of program administration.
2. The Grantee shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Grant Contract.
 - a. Trees will be planted on public land or private nonprofit land unless an exception is granted by the State.
 - b. A riparian area is defined as the 35-foot buffer extending from either side of a creek, stream, or riverbank. Riparian tree plantings are allowed on both public and private lands.

- c. Tree purchases must come from a Tennessee Nursery. Trees purchased must meet the ANSI Z-60.1-2004, American Standard for Nursery Stock.
 - d. Trees must be planted according to the Tennessee Department of Agriculture Forestry Division planting specifications.
 - e. Trees must be watered during dry periods for at least one growing season after being planted. Bare-root seedlings must be planted by March 30, 2020; containerized/balled and burlapped trees must be planted by April 15, 2020.
 - f. The Grantee will install a sign with the following statement: (THE CITY OF FRANKLIN, IN PARTNERSHIP WITH THE TENNESSEE DEPARTMENT OF AGRICULTURE DIVISION OF FORESTRY, HAS COMPLETED THIS COMMUNITY TREE PLANTING PROJECT. This sign will remain through the contract period.
 - g. The Grantee will appoint a minimum three (3)-person panel of citizens in the local community to provide project oversight to ensure tax dollars are spent efficiently and effectively. Members of the panel shall not have any relation to any entity supplying the trees to the grantee or any economic interest in the planting thereof. Existing tree boards may serve in this oversight function.
 - h. Additional requirements specific to the Grantee's project are listed in the Grantee's project summary, which is Exhibit A to this contract. These requirements are primarily listing the species, size, and number of trees the Grantee will plant.
 - i. Change in species, size, or location during the purchasing or tree planting time period is available with prior written approval from the urban staff.
3. The Estimated Incentive Payment Amount offered by the TUFC through this Agreement is indicated in Item 7 below. There is no guarantee of additional financial assistance to cover unforeseen conditions that may arise and are not accounted for in the TAEP project cost estimate. This Agreement is subject to the appropriation and availability of State I funds. In the event the funds are not appropriated or are otherwise unavailable, TUFC reserves the right to terminate this Agreement upon notice to the Grantee.
 4. The Grantee shall be reimbursed for actual, reasonable, and necessary cost based upon the Agreement Project Budget, but not to exceed the Maximum Liability established in project estimate.
 5. The Grantee agrees to have all funds spent and receipts submitted to TUFC by the "End Date" noted above. If it becomes apparent that all funds will not be spent by the "End Date," the Grantee will immediately notify TUFC so funds can be reallocated.
 6. Approval of TAEP grant cost elements will be eligible for incentive payments based on the completion of a TAEP grant application, the assessed needs within such plan, and this Agreement.
 7. The Grantee agrees that the Commissioner of Tennessee Department of Agriculture or his designee, or the TUFC employees and representatives may periodically enter properties within the framework of this project for the purpose of determining compliance with this Agreement.

Project Estimate:

Please see list of tools, materials, and or services along with the cost of the items your community intends to purchase with the Grant. Any change from the items listed below must be requested in writing to the Tennessee Urban Forestry Council prior to purchase.

Materials/Supplies/Services			Estimated Cost
The Grant Budget line item amounts below shall be applicable only to expenses incurred during the following applicable period:			
Begin: November 01, 2019 End: April 30, 2020			
Item	Grant Agreement	Grantee Match	
Trees	\$16,119.50	\$16,119.50	\$32,239.00
Watering Bags	\$3,208.50	\$3,208.50	\$6,417.00
Sign	\$22.50	\$22.50	\$45.00
Total	\$19,350.50	\$19,350.50	\$38,701.00

Grantee's Initials _____ Estimated Incentive Payment Amount: \$ 19,350.50

AWARD OF MAXIMUM INCENTIVE PAYMENT AMOUNT:		
<u>\$ 19,350.50</u>		
I hereby agree to the Terms of Agreement listed above.		
Print Name: <u>Eric S. Stuckey</u>		
Title: <u>City Administrator</u>		Date: <u>8-21-19</u>
(TYPING NAME HERE WILL SERVE YOUR ELECTRONIC SIGNATURE)		
Signature of Grantee: <u>Eric S. Stuckey</u>		
This application is approved for Incentive Payments based on the terms agreed to above, not to exceed the Maximum Incentive Payment Amount given above and only after the TAEP program guidelines have been implemented.		
Print Name: _____		Date: _____
Title: _____		
(TYPING NAME HERE WILL SERVE YOUR ELECTRONIC SIGNATURE)		
Signature of TUFC Representative: _____		

Approved as to Form:

Shauna R. Billingsley
Shauna R. Billingsley, City Attorney

Addendum to COF Contract No. 2019-0253

This Addendum shall modify and supersede the attached document COF Contract No. 2019-0253 (the "Agreement") and entered into on the ___ day of _____, 2019, by the City of Franklin, Tennessee ("City") and Tennessee Urban Forestry Council (TUFC), ("Contractor"). The Agreement together with this Addendum and the attached document(s) constitute the entire agreement ("Agreement"). Acceptance of payment as stated in the Agreement constitutes Contractor's acceptance of all terms and conditions stated herein.

Standard Terms and Conditions

1. **Maximum Liability.** In no event shall the maximum liability of the City under this Agreement exceed the amount set forth in the Agreement. The payment as described in the Agreement is **NINETEEN THOUSAND THREE HUNDRED FIFTY AND 50/100 DOLLARS (\$19,350.50)** and shall constitute the entire compensation due the Contractor for all travel, professional services, and software regardless of the difficulty, materials, or equipment required, unless amended. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.
2. **Indemnification and Limitations of Liability.** The City, being a Tennessee governmental entity, is governed by the provisions of the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. § 29-20-101 et. seq. for causes of action sounding in tort. Further, no contract provision requiring a Tennessee political entity to indemnify or hold harmless the Contractor beyond the liability imposed by law is enforceable because it appropriates public money and nullifies governmental immunity without the authorization of the General Assembly.
3. **Conflicts of Interest.** The Contractor warrants that no part of the total Agreement Amount shall be paid directly or indirectly to an employee or official of the GNRC or the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
4. **Nondiscrimination.** The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
5. **Lobbying.** The Contractor certifies, to the best of its knowledge and belief, that:
 - a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
 - c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

6. **Public Accountability.** If the Contractor is subject to Tenn. Code Ann. § 8-4-401, *et seq.*, or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about Contractor's operation of the service program. The Contractor shall also display in a prominent place, located near the passageway through which the public enters in order to receive contract-supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating the following:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY THAT YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

The sign shall be of the form prescribed by the Comptroller of the Treasury. The GNRC shall request copies of the sign from the Comptroller of the Treasury and provide signs to contractors.

7. **Records.** The Contractor shall maintain documentation for all charges under this Agreement. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of seven (7) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the City. The financial statements shall be prepared in accordance with generally accepted accounting principles.
8. **Time of the Essence.** The parties agree that TIME IS OF THE ESSENCE with respect to the parties' performance of all provisions of the Agreement.
9. **Confidentiality and Proprietary rights.** Contractor waives any right to confidentiality of any document, e-mail or file it fails to clearly mark on each page (or section as the case may be) as confidential or proprietary. Proprietary rights do not extend to the data created by the City's users of the System; all rights to that data (including derivative or hidden data such as metadata) shall vest solely in City at the moment of creation and City shall retain exclusive rights, title, and ownership of all data and images created therefrom at the moment of creation and utilization, through and including image creation. City may be required to disclose documents under state or federal law. City shall notify Contractor if a request for documents has been made and shall give Contractor a reasonable opportunity under the circumstances to respond to the request by redacting proprietary or other confidential information. In exchange, Contractor agrees to indemnify, defend, and hold harmless City for any claims by third parties relating thereto or arising out of (i) the City's failure to disclose such documents or information required to be disclosed by law, or (ii) the City's release of documents as a result of City's reliance upon Contractor's representation that materials supplied by Contractor (in full or redacted form) do not contain trade secrets or proprietary information, provided that the City impleads Contractor and Contractor assumes control over that claim.
10. **Warranties/Limitation of Liability/Waiver.** The City reserves all rights afforded to local governments under law for all general and implied warranties. The City does not waive any rights it may have to all remedies provided by law and therefore any attempt by Contractor to limit its liability shall be void and unenforceable.
11. **Arbitration/Mediation.** No arbitration shall be required as a condition precedent to filing any legal claim arising out of or relating to the Contract. No arbitration or mediation shall be binding.
12. **No Taxes. No Interest Payments.** As a tax-exempt entity, the City shall not be responsible for sales or use taxes incurred for products or services. The City shall supply Contractor with its Sales and Use Tax Exemption Certificate upon Contractor's request. Contractor shall bear the burden of providing its suppliers with a copy of the City's tax exemption certificate and shall

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assume all liability for such taxes, if any, that should be incurred. The City does not agree to pay any interest for late payments, having agreed to pay in a timely manner.

13. **Notices.** Any notice provided pursuant to the Contract, if specified to be in writing, will be in writing and will be deemed given: (a) if by hand delivery, then upon receipt thereof; (b) if mailed, then three (3) days after deposit in the mail where sender is located, postage prepaid, certified mail return receipt requested; (c) if by next day delivery service, then upon such delivery; or (d) if by facsimile transmission or electronic mail, then upon confirmation of receipt. All notices will be addressed to the parties at the addresses set forth below (or set forth in such other document which the Agreement or this Addendum may accompany, or such other address as either party may in the future specify in writing to the other):

14.

In the case of the City:

City of Franklin
Attn: Alyssa Dillon
109 Third Ave. South
P.O. Box 305
Franklin, TN 37065-0305
FAX: 615.794.2103
E-mail: alyssa.dillon@franklintn.gov

In the case of Contractor:

Tennessee Urban Forestry Council (TUFC)
ATTN: Mike Dorsey
PO Box 50711
Knoxville, Tennessee 37950
Work/Cell: 615.638.8027
E-mail: info@tufc.com

15. **Waiver.** Neither party's failure or delay to exercise any of its rights or powers under the Contract will constitute or be deemed a waiver or forfeiture of those rights or powers. For a waiver of a right or power to be effective, it must be in writing signed by the waiving party. An effective waiver of a right or power shall not be construed as either (a) a future or continuing waiver of that same right or power, or (b) the waiver of any other right or power.
16. **Severability.** If any term or provision of the Contract is held to be illegal or unenforceable, the validity or enforceability of the remainder of the Contract will not be affected.
17. **Precedence.** In the event of conflict between this Addendum and the provisions of the Agreement, or any other contract, agreement or other document to which the Agreement or this Addendum may accompany or incorporate by reference, the provisions of this Addendum will, to the extent of such conflict (or to the extent the Agreement is silent), take precedence unless such document expressly states that it is amending this Addendum.
18. **Entire Agreement.** The Contract between the parties and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of the entire Contract. The terms and conditions of this Addendum may not be changed except by an amendment expressly referencing this Addendum by section number and signed by an authorized representative of each party.
19. **Additions/Modifications.** If seeking any addition or modification to the Contract, the parties agree to reference the specific paragraph number sought to be changed on any future document or purchase order issued in furtherance of the Contract, however, an omission of the reference to same shall not affect its applicability. In no event shall either party be bound by any terms contained in any purchase order, acknowledgement, or other writings unless: (a) such purchase order, acknowledgement, or other writings specifically refer to the Contract or to the specific clause they are intended to modify; (b) clearly indicate the intention of both parties to override and modify the Contract; and (c) such purchase order, acknowledgement, or other writings are signed, with specific material clauses separately initialed, by authorized representatives of both parties.
20. **Applicable Law: Choice of Forum/Venue.** The Contract constitutes the entire agreement and is made under and will be construed in accordance with the laws of the State of Tennessee without giving effect to any state's choice-of-law rules. The choice of forum and venue shall be exclusively in the Courts of Williamson County, Tennessee. The Contractor acknowledges and agrees that any rights or claims against the City of Franklin or its employees, or elected or appointed officials hereunder, and any remedies arising there from, shall be subject to and limited

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to those rights and remedies, if any, available under Tenn. Code Ann. §§ 9-8-101 through 9-8-407.

21. Breach. Upon deliberate breach of the Contract by either party, the non-breaching party shall be entitled to terminate the Contract without notice, with all of the remedies it would have in the event of termination and may also have such other remedies as it may be entitled to in law or in equity.
22. Survival. This Addendum shall survive the completion of or any termination of the Contract, agreement or other document to which it may accompany or incorporate by reference.
23. Modification and Amendment. This Agreement may be modified only by a written amendment signed by all Parties.

CITY OF FRANKLIN, TENNESSEE

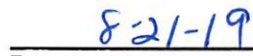
TENNESSEE URBAN FORESTRY
COUNCIL


Signature

Signature


Print Name and Title

Print Name and Title


Date

Date

Approved as to form:


Shauna R. Billingsley, City Attorney

2019 TAEP Grant Tree List

Hale & Hines Nursery

Hale and Hines Nursery
416 Hines Lane
McMinnville, TN 37110
(931) 668-4488

Quantity	Description	Size	Cost per Tree	Total Amount
56	Eastern Redcedar	15 gal.	\$ 72.00	\$ 4,032.00
10	Ilex Opaca Greenleaf	15 gal.	\$ 78.00	\$ 780.00
5	Ilex Opaca Greenleaf	30 gal.	\$ 163.00	\$ 815.00
3	Acer Rubrum Armstrong Gold	15 gal. Low Branched	\$ 86.00	\$ 258.00
3	Acer Rubrum October Glory	30 gal.	\$ 160.00	\$ 480.00
3	Acer Rubrum Red Sunset	15 gal.	\$ 86.00	\$ 258.00
2	Acer Rubrum Scarlet Sentinel	30 gal.	\$ 160.00	\$ 320.00
1	Acer Rubrum x Sun Valley	15 gal.	\$ 86.00	\$ 86.00
5	Aesculus Glabra	15 gal.	\$ 100.00	\$ 500.00
6	Amelanchier Grandiflora	15 gal.	\$ 86.00	\$ 516.00
5	Asimina Trilobe Paw Paw	30 gal.	\$ 162.00	\$ 810.00
6	Carpinus Caroliniana American	15 gal.	\$ 112.00	\$ 672.00
6	Carpinus Caroliniana American	30 gal.	\$ 160.00	\$ 960.00
5	Carya ilinoensis Native Pecan	15 gal.	\$ 98.00	\$ 490.00
2	Cercis Canadensis Ace of Hearts	15 gal.	\$ 96.00	\$ 192.00
2	Cercis Canadensis Burgandy Hearts	15 gal.	\$ 108.00	\$ 216.00
2	Cercis Canadensis Eastern	15 gal.	\$ 80.00	\$ 160.00
5	Cladrastis Kentuckia American	30 gal.	\$ 164.00	\$ 820.00
6	Diospyros Virginiana	15 gal.	\$ 80.00	\$ 480.00
10	Fagus American	30 gal. Full to ground	\$ 190.00	\$ 1,900.00
6	Gymnocladus dioica Ky. Coffeetree	15 gal.	\$ 90.00	\$ 540.00
7	Liquidamber Styraciflua Sweetgum	15 gal.	\$ 86.00	\$ 602.00
5	Liriodendron Tulipifera Tuliptree	30 gal.	\$ 160.00	\$ 800.00
7	Nyssa sylvatica Blackgum	30 gal.	\$ 163.00	\$ 1,141.00
5	Ostrya virginiana American Hophornbeam	15 gal.	\$ 112.00	\$ 560.00
6	Platanus occidentalis Sycamore	30 gal.	\$ 140.00	\$ 840.00
5	Quercus alba	30 gal.	\$ 168.00	\$ 840.00
6	Quercus rubra	15 gal.	\$ 104.00	\$ 624.00
5	Quercus macrocarpa	30 gal.	\$ 160.00	\$ 800.00
5	Quercus shumardii	30 gal.	\$ 160.00	\$ 800.00
200			Total \$	22,292.00

GroWild Nursery

GroWild Nursery
7190 Hill Hughes Road
Fairview, TN 37062
(615) 799.1910

Quantity	Description	Size	Cost per Tree	Total Amount
5	Acer saccharum Sugar Maple	15 gal.	\$ 126.00	\$ 630.00
6	Aesculus ocrandria Yellow Buckeye	15 gal.	\$ 122.50	\$ 735.00
5	Carya cordiformis Bitternut Hickory	15 gal.	\$ 119.00	\$ 595.00
4	Carya glabra Pignut Hickory	15 gal.	\$ 129.50	\$ 518.00
3	Carya tomentosa Mockernut Hickory	15 gal.	\$ 119.00	\$ 357.00
6	Crataegus phoenopyrum Washington Hawthorn	15 gal.	\$ 126.00	\$ 756.00
1	Magnolia acuminata Cucumber magnolia	15 gal.	\$ 129.50	\$ 129.50
5	Oxydendrum arborea Sourwood	15 gal.	\$ 129.50	\$ 647.50
4	Pinus virginia Virginia Pine	15 gal.	\$ 119.00	\$ 476.00
4	Pinus echinata Short leaf pine	15 gal.	\$ 119.00	\$ 476.00
5	Prunus americana American Plum	15 gal.	\$ 119.00	\$ 595.00
1	Prunus serotina Wild Black Cherry	25 gal.	\$ 157.50	\$ 157.50
3	Quercus muhlenbergii Chinquapin Oak	15 gal.	\$ 129.50	\$ 388.50
1	Quercus prinus Chestnut Oak	15 gal.	\$ 126.00	\$ 126.00
3	Quercus velutina Black Oak	15 gal.	\$ 126.00	\$ 378.00
3	Quercus stellata Post Oak	15 gal.	\$ 126.00	\$ 378.00
3	Quercus coccinea Scarlet Oak	15 gal.	\$ 126.00	\$ 378.00
3	Quercus phellos Willow Oak	15 gal.	\$ 126.00	\$ 378.00
3	Quercus falcata Souther Red Oak	15 gal.	\$ 126.00	\$ 378.00
6	Sassafras albidum Sassafras	15 gal.	\$ 119.00	\$ 714.00
6	Tilia americana Basswood	15 gal.	\$ 126.00	\$ 756.00
80			Total \$	9,947.00

Tree Watering Devices

280	Treegator Jr. Pro Slow release watering bag	15 gallons of water	\$ 22.92	\$ 6,417.00
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Signage

1	Sign of Recognition		\$	45.00
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Grand Total \$ 38,701.00